IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

Crl.Rev.Pet.No. 265 of 1998()

AGAINST THE ORDER DATED 17/02/1998 IN CRMP 21/98 IN SC.152/1994 of ASSISTANT SESSIONS COURT, PAYYANNUR

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REVN. PETITIONER:

K.RAGHAVAN,
S/O.KUNHAMBU,
AGED 51 YEARS,
PAYYANNUR,
KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.M.K.DAMODARAN (SR.)

RESPONDENTS:

STATE REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/08/2007, ALONG WITH CRMC NO. 2717 OF 2001 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P NO.1345/1998 IN CRL.RP.NO.265/1998

CLOSED

SD/- K.R.UDAYABHANU, JUDGE

17/08/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

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Crl.R.P.No.265 of 1998 -C &
Crl.M.C.No.2717 of 2001-D

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Dated this the 17th day of August, 2007

O R D E R

Crl.R.P.No.265/1998 is filed seeking to set aside the order of the court below dismissing the application filed by the Additional Public Prosecutor seeking to withdraw the case vide Section 321 of the Code of Criminal Procedure. Crl.M.C.No.2717/2001 is filed by the additional eighth accused. He has been subsequently implicated after the registration of the crime.

2. I find that the accused 75 in number were charge sheeted. In the F.I.S the number of persons is mentioned as 1545, who can be recognised at sight. The matter related to a protest procession taken out by the opposition front against the arrest of two opposition leaders and the allegation is that the accused entered the Payyannur Police Station compound and caused damages to the window panes of the building and to the jeep lying stationary in the station compound. The prosecutor had applied mentioning the reasons that the matter involved only a protest by a group of political parties and the same was an instant reaction of the people

and that the matter has subsided and total peace prevailed in the area. It is also pointed out that considering the number of accused, the identification parade ought to have been conducted which is not done. Although Section 307 I.P.C is mentioned, no injury has been sustained to anybody. The witnesses are all policemen.

3. I find that the court below has dismissed the application on the ground that the prosecutor has not applied his mind to the facts of the case. I find that the observation is incorrect in view of the specific averments in Annexure-I copy of the application of the Public Prosecutor under Section 321 Cr.P.C.

In the circumstances and considering the nature of the offence and the evidence sought to be adduced, I find that the order of the court below is to be set aside; and I do so. The case will stand withdrawn under Section 321 Cr.P.C. Hence, criminal revision petition is allowed. The Crl.M.C.No.2717/2001 is also allowed.

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.R.P.No.265 of 1998 -C
& Crl.M.C.No.2717 of 2001-D

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O R D E R

17th August, 2007